Appendix A.

No. 844

SUPREME COURT OF THE UNITED STATES

October Term, 1941.

BAKERY SALES DRIVERS LOCAL UNION No. 344 (A. F. of L.), AUTO TRUCK DRIVERS JOINT COUNCIL No. 50 (A. F. of L.), ELMER JOHNSON, JOSEPH REICHARTZ, GILBERT SCHLECHTA and G. McMICKEN,

Petitioners,

vs.

CARPENTER BAKING COMPANY, a Corporation,

Respondent.

State of Wisconsin, }
Milwaukee County. } ss.

M. H. Carpenter being first duly sworn on oath deposes and says: that he is secretary-treasurer of the Carpenter Baking Company, respondent in the above entitled action; that the trial of the issues in said action was had on the 22nd, 23rd, 24th and 25th days of September, 1940; that the judgment of the trial court was entered in said action on the 16th day of December, 1940;

That at the time of said trial and the entry of said judgment respondent had twenty-eight employes eligible for

membership in Bakery Sales Drivers Local Union No. 344; that of said twenty-eight, eight of respondent's employes belonged to said union; that subsequent to said trial and entry of judgment other employes of respondent became members of said union and on the 8th day of April, 1941, respondent recognized that a majority of its said employes were members of said union and on said 8th day of April, 1941 a formal contract was entered into between said union and the respondent, a copy of which contract is annexed hereto, marked Exhibit "A" and made a part hereof. That under the terms of said contract respondent recognized said union as "the sole collective bargaining agent for all truck drivers in its employ".

Affiant further avers that on or about the 5th day of November, 1941, respondent received from the Regional Director of the National Labor Relations Board in the City of Milwaukee, Wisconsin, a letter making inquiry concerning the relationship between respondent and said union; that on the 11th day of November, 1941, on behalf of respondent, a letter was addressed to said Regional Director of the National Labor Relations Board reading in part as follows:

> "* * * In response to the inquiry contained in your letter we wish to advise you as follows:
>
> On the first day of April, 1941, a contract was entered into between Carpenter Baking Company as employer and the I. B. of T. C. W. & H. of A. Bakery Sales Drivers Local No. 344. The contract is not a so-called closed shop contract; however, it expressly provides that the employer recognizes the Union as the sole collective bargaining agent for all truck drivers in its employ during the term of the contract. The contract further provides that 'This agreement shall become effective upon signing and shall remain in full force and effect to November 1, 1941'.

Since the signing of the contract the Carpenter Baking Company has at all times recognized and still recognizes Bakery Sales Drivers Local No. 344 (A. F. of L.) as the sole collective bargaining agent for truck drivers in the employ of the Company. The Company stands ready and willing to negotiate with this Union at all times and upon all subjects that are a proper matter for negotiation."

That on the 9th day of December, 1941, the Regional Director of the National Labor Relations Board forwarded a letter in response to the foregoing letter, wherein he declared:

"This is to advise you that the question of representation raised by the petition in the above matter has been adjusted".

Affiant further avers that respondent still recognizes Bakery Sales Drivers Local Union No. 344 "as the sole collective bargaining agent for all truck drivers in its employ" and it stands ready and willing to negotiate with said union at all times concerning the employment relations between respondent and its said employes.

Affiant further avers that this affidavit is made for the purpose of establishing that the principal issue as stated in petitioners' brief is now a moot question.

....(signed) M. H. CARPENTER. .....

Subscribed and sworn to before me
this ....28th.... dayof January, 1942.

....(signed) CATHERINE L. CASEY ,....

Notary Public, Milwaukee County, Wisconsin.
My commission expires ....Sept. 24, 1944. ....

(Notarial Seal)

Exhibit "A".

AGREEMENT.

Bakery Sales Drivers Local No. 344

Wholesale

This Agreement made and entered into this 8th day of April, 1941, by and between *Carpenter Baking Company,* hereinafter referred to as the Employer, and the I. B. of T. C. W. & H. of A., *Bakery Sales Drivers Local No. 344* of Milwaukee, Wisconsin, hereinafter referred to as the Union.

WITNESSETH

Whereas both parties are desirous of preventing strikes and lockouts and to maintain a uniform minimum scale of wages, working hours, and conditions among the members of the Union, and concerns, individuals, and corporations hiring and employing truck drivers and helpers, and to facilitate a peaceful adjustment of all grievances and disputes which may arise from time to time between the Employer and his individual employees in the occupation above-described, the following conditions are set forth:

Article I.

The Employer recognizes the Union as the sole collective bargaining agent for all truck drivers in its employ during the term of this contract.

The Union agrees to accept all such new and old employees into membership upon the same terms and conditions as govern the admission of others to such membership.

Article II.

The Employer agrees not to discharge any employee because of union activities, or without just cause, and agrees to reinstate any employee in accordance with the terms for settling any disputes between the Employer and the Union as herinafter provided.

(Articles III to XXII inclusive of the contract are not printed at length in this brief for the reason that they are not material to the issues before the court.)

Article XXIII.

This agreement shall become effective upon signing and shall remain in full force and effect to November 1, 1941.

Employer: **Union:**

BAKERY SALES DRIVERS #344

CARPENTER BAKING CO. **Per**

Per T. E. McCully ELMER JOHNSON — sec'y

V.P.

(SEAL)